

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
LUBBOCK DIVISION

STATE OF TEXAS,

Plaintiff,

v.

MERRICK GARLAND, *et al.*,

Defendants.

No. 5:23-cv-34-H

TEXAS’S OBJECTIONS TO DEFENDANTS’ DECLARATIONS

On November 1, 2023, Defendants served five declarations on Plaintiff the State of Texas (“Texas”). *See* Ex. 1. Per this Court’s order on October 24, 2023, *see* ECF No. 75, Texas makes the following objections to those declarations:¹

Texas’s Objections to Defendants’ Declarations	
Defendants’ Declaration	Texas’s Objections
Declaration of Peter Mina	-There is a lack of foundation for paragraph 4. -The last two sentences of paragraph 6 constitute an improper opinion under Fed. R. Evid. 701.

¹ Per this Court’s order, any motions to exclude are due November 20, 2023, and any response to such motions are due November 22, 2023. *See* ECF No. 75 at 3. Thus, while Defendants purportedly filed a motion to exclude as a means to object to Texas’s declarations, *see* ECF No. 77, Texas reserves the right to file any motion to exclude any of Defendants’ declarations on November 20, 2023, and it reserves the right to respond to Defendants’ current motion to exclude (and any additional motions to exclude) on November 22, 2023.

Texas's Objections to Defendants' Declarations	
Defendants' Declaration	Texas's Objections
Second Declaration of Kelly Kinneen	<p>-Paragraph 3 constitutes an improper legal conclusion and improper opinion under Fed. R. Evid. 701 and 702.</p> <p>-The last sentence of paragraph 5 is irrelevant under Fed. R. Evid. 401, 402, and 403.</p> <p>-The last sentence of paragraph 8 is irrelevant under Fed. R. Evid. 401, 402, and 403.</p> <p>-There is a lack of foundation for paragraphs 11-13, which also constitutes an improper legal conclusion, an improper opinion under Fed. R. Evid. 701 and 702, and a speculative assertion under Fed. R. Evid. 602, 701, and 702.</p>
Declaration of Karen Woodard	<p>-Paragraphs 5, the first sentence of paragraph 6, and the first sentence of paragraph 7 constitute an improper opinion and an improper legal conclusion under Fed. R. Evid. 701.</p>
Declaration of Carol R. Miaskoff	<p>-There is a lack of foundation for the first sentence in paragraph 5, which also constitutes an improper opinion and a speculative assertion under Fed. R. Evid. 602, 701, and 702.</p> <p>-There is a lack of foundation for the third, fourth, and fifth sentences of paragraph 6, which also constitute an improper legal conclusion, an improper opinion, and a speculative assertion under Fed. R. Evid. 602, 701, and 702.</p> <p>-There is a lack of foundation for the first sentence of paragraph 15, which also constitute an improper legal conclusion, an improper opinion, and a speculative assertion under Fed. R. Evid. 602, 701, and 702.</p>

Texas's Objections to Defendants' Declarations	
Defendants' Declaration	Texas's Objections
Declaration of Tracy Hudson	<ul style="list-style-type: none">-There is a lack of foundation for paragraph 5.-There is a lack of foundation for paragraph 7. Paragraph 7 is irrelevant under Fed. R. Evid. 401, 402, and 403.-Footnote 6 discusses the law applicable to paragraph 6, and because the law speaks for itself, Texas thus objects to the extent that paragraph 6 or footnote 6 misstates or mischaracterizes the law.

CONCLUSION

The Court should sustain Texas's objections to Defendants' declarations.

Dated November 7, 2023.

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Respectfully submitted.

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CERTIFICATE OF SERVICE

I certify that on November 7, 2023, these objections were filed through the Court's CM/ECF system, which served it upon all counsel of record.

/s/ Ethan Szumanski
ETHAN SZUMANSKI